

WATER DEPARTMENT RESPONSE **TO GRAND JURY FINDINGS AND RECOMMENDATIONS**

RESPONSE TO FINDINGS:

Requirements: As to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
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1. Water account holders have changed the billing name on an account to avoid payment of delinquent amounts while maintaining uninterrupted water service.

RESPONSE: The respondent disagrees wholly with the finding. The Water Department does not allow a delinquent account holder to put someone else's name on an account. A new customer may sign up at a particular service address if they provide the required information. However, the new customer will be given an account number different than that assigned to the previous account holder. The new customer will be responsible for payments of all water bills as of the date they are assigned their account number. The previous delinquent account holder is then referred for credit collection.

2. The Water Department has for years allowed delinquent account holders to maintain water service continuity by simply changing the billing name on the account.

RESPONSE: The respondent disagrees wholly with the finding. The Water Department has never allowed a delinquent account holder to maintain water service by changing the billing name on the account. A new customer may sign up for service if they provide the required information. However, the new customer will be given a different account number and the previous delinquent account holder will be referred by the Water Department for credit collection. Once referred for collection, the City aggressively pursues delinquent account holders. The City has an excellent collection process. This is illustrated by the fact that the industry standard for collection of delinquent accounts is 20.5% according to an American Collection Association Report while the City has a much higher rate of collection of between 30 - 35%.

3. The Water Department has not initiated action to remedy the practice of maintaining water service continuity even though delinquent by changing the name on the account.

RESPONSE: The respondent disagrees wholly with the finding. See response to #1 above. We are however, evaluating the pros and cons of requiring any request for new service to include responsibility for bringing previous accounts at the same address current. This requirement is used by some other water agencies, but are penalizing to new tenants or owners where the previous account holders have not paid their water bill.

4. Department personnel knew of a possible asbestos hazard for seven months before the site in question was examined for hazardous materials.

RESPONSE: The respondent agrees with the finding. It is important to know that none of the material at the site was found to be asbestos. City employees were always working in an environment free from hazardous materials. The City has a very comprehensive Hazardous Materials Training Program. This training is provided in accordance with Administrative Regulation 75.75 (established April 15, 1990) and includes instruction regarding reporting of suspected hazardous materials. At this time, all issues of concern at the site have been corrected.

5. Thirteen months elapsed from the discovery of the suspected asbestos hazard to the determination that it was unfounded.

RESPONSE: The respondent agrees with the finding. There was never a hazardous material threat at this site. City employees always were in a site free from asbestos.

6. Department management has allowed improper hookups of CP meters discovered and reported by Code Compliance Officers to continue.

RESPONSE: The respondent disagrees wholly with the finding. The Water Department was aware of only one improper Construction Program (CP) meter hookup. Staff was directed not to disconnect the meter on that day only due to the presence of a ceremony. This direction was misinterpreted and no follow up took place after that day. While the CP meter was left installed for longer than it should have been, the rate code was changed so that appropriate sewer fees were collected.

7. City water is sometimes obtained without payment by the use of illegal hook-ups to fire hydrants.

RESPONSE: The respondent agrees with the finding. We are unable to estimate the loss through this type of theft, however overall unaccounted water losses comprised of breaks, fire fighting uses, and water main flushing are low by industry average. The Industry average for unaccounted water equals 8%. The City of San Diego's Water Department percentage of unaccounted water is considerably less at only 3.1%.

8. City water is sometimes obtained without payment by illegally bypassing water meters by the use of “stiffs.”

RESPONSE: The respondent agrees with the finding. As a consequence, the City has developed a multifaceted response in order to suppress this activity. The Water Department has worked closely with the City Attorney’s office to modify the Municipal Code to enable the City to more aggressively pursue the theft of water by the use of “stiffs.” The Water Department’s Code Enforcement Section has emphasized investigation of the use of “stiffs.” Finally, the Department has mounted an information campaign which in part is to notify customers about the consequences of water theft. The impact of these responses should reduce the use of “stiffs.” The Department will monitor this situation and take additional practical steps to stop this activity.

9. There is no legislation specifically providing for forfeiture of pipes, hoses and other equipment illegally connected to City fire hydrants.

RESPONSE: The respondent agrees with the finding. The City Council has recently approved significant changes to the Municipal Code which provides the authority to prosecute companies and/or individuals that illegally connect to city fire hydrants. It is the City’s intent to punish those who illegally connect to City fire hydrants in order to reduce this practice. Suppressing this activity is more important than the seizure of equipment used in this practice. However, Code Compliance Officers do remove and take illegal connections when they are found.

10. Code Compliance Officers have on occasion been orally instructed by superiors to stay away from construction sites where violations had previously been reported.

RESPONSE: The respondent disagrees wholly with the finding. The Water Department was aware of only one improper Construction Program (CP) meter hookup. Staff was directed not to disconnect the meter on that day only due to the presence of a ceremony. This direction was misinterpreted and no follow up took place after that day. While the CP meter was left installed for longer than it should have been, the rate code was changed so that appropriate sewer fees were collected.

11. The Code Compliance Section of the Department is currently budgeted for and staffed with three full time compliance officer positions.

RESPONSE: The respondent agrees with the finding at the time of the Grand Jury Review. Since that time the Water Department has been authorized to add three additional Code Compliance Officer positions. The Manager’s office has authorized the department to hire these additional positions and the Department has begun the selection process. Additionally, the Department has focused the span of control of the Code Compliance Supervisor. Previously that supervisor managed the work of the Code Enforcement Unit as well as the Restoration Crew. The Code Enforcement Supervisor now focuses solely on code

enforcement issues.

12. Two additional unbudgeted Code Compliance officers are being hired.

RESPONSE: The respondent disagrees partially with the finding. There will be three additional Code Compliance Officer positions.

13. The Water Department Code Compliance Section has sometimes been reduced to one or two persons for months at a time because of vacations and illnesses without even temporary replacement staffing.

RESPONSE: The respondent agrees with the finding. The addition of three additional Code Compliance Officers and provision of a full time supervisor will alleviate this situation. The additional staffing will enable the Department to avoid staff shortages due to vacations or illnesses.

14. The Spectrum meters were purchased without following standard testing procedures.

RESPONSE: The respondent disagrees wholly with the finding. The City requires all meters to meet standards and specifications developed by the American Water Works Association (AWWA). The AWWA is a national organization comprised of virtually every water organization in the country. Manufacturers are required to test and calibrate their devices so that the devices meet these standards. The City also randomly tests some meters prior to installation.

15. Some Spectrum meters failed under high flow conditions.

RESPONSE: The respondent agrees with the finding. In response, the Department quickly replaced the Spectrum meters with Enduro meters which are capable of dealing with high flow conditions. It is important to know that the contract with Metron-Farnier allowed for replacement of failed meters at no cost to the City. The Spectrum meters that failed were replaced at no cost.

16. The Spectrum meter contract was subsequently amended to include the purchase of the Enduro meters.

RESPONSE: The respondent agrees with the finding. The contract with Metron-Farnier was amended to allow the purchase of Enduro meters. This was done to ensure that the Department had the correct meter for high flow conditions.

17. The Enduro meters were purchased without following standard testing procedures.

RESPONSE: The respondent disagrees wholly with the finding. The City requires all meters to meet standards and specifications developed by the American Water Works Association (AWWA). The AWWA is a national organization comprised of virtually every water organization in the country. Manufacturers are required to test and calibrate their devices so that the devices meet these standards. The City also randomly tests some meters prior to installation.

18. Some Enduro meters were used to replace some Spectrum meters.

RESPONSE: The respondent agrees with the finding. This was done to ensure that the Department had the correct meter for the high flow conditions.

19. Some Enduro meters failed under low flow conditions.

RESPONSE: The respondent disagrees wholly with the finding. The Water Department has not had any verification of Enduro meters failing under low flow conditions.

20. Improper reading of the Enduro meters by the Hexagram device delayed receipt of approximately 90 percent of Enduro meter revenues for a lengthy period of time and the associated loss of the use of those revenues.

RESPONSE: The respondent agrees with the finding. There was a loss of the use of the revenues for a period of time but all funds owed have been collected.

21. The improper reading was due to the failure for several months of Department management to understand that the Hexagram device read only five digits while the Enduro meter has a six-digit dial.

RESPONSE: The respondent partially disagrees with the finding. The staff that took receipt of the meters, and the staff that installed the meters and then programmed the Hexagram devices (that remotely read the meters) failed to understand or inform management that the Hexagram device was only reading 10% of the actual flow. This situation was corrected by the Department proactively contracting with an outside firm to discover any discrepancies in its billing system. During the course of this investigation, the firm discovered the discrepancies related to reading the Enduro meters. Once this situation was understood, the Department required that all Enduro meters be manually read. As indicated, all funds owed the City because of this situation have been paid.

22. The Director and the then Chief Deputy Director failed to act on many of the communications directed to them about the problems encountered by the supervisors and staff.

RESPONSE: The respondent disagrees wholly with the finding. The Grand Jury report does not specify what communications the Director and Chief Deputy Director failed to act upon so it is not possible to respond fully to this finding. The Department does not know of any situation where the Director or the Chief Deputy Director failed to act upon any communications that were warranted.

23. Rather than accept responsibility with respect to at least one Water Department problem the then Chief Deputy Director believed that such responsibility lay with supervisors.

RESPONSE: The respondent disagrees wholly with the finding. The Grand Jury report does not specify a problem for which the Chief Deputy Director failed to accept responsibility so it is not possible to respond fully to this finding. The Department does not know of any problem for which the Chief Deputy Director failed to accept responsibility.

24. The Director, the then Chief Deputy Director, and other managers did not manage the Department's Management Services Division in an efficient and responsible manner.

RESPONSE: The respondent disagrees wholly with the finding. This finding is incorrect. To illustrate this fact, the following two measurements are provided. First, the Industry average for unaccounted water equals 8%. The City of San Diego's Water Department percentage of unaccounted water is considerably less at only 3.1%. Second, the Industry average for collection of delinquent accounts is 20.5% according to an American Collection Association Report. The City rate for collection of delinquent accounts is between 30% - 35%. The total unbilled amount between 7/1/80 and 12/22/99 was \$449,748. The total billed amount between 7/1/80 and 12/22/99 was \$3,728,918,091. In other words, the % of unbilled service of the total billable service was 0.012% during this time frame. Another way of stating it is that the Water Department collected 99.988% of the potential billable service. The actual prorated usage bill sent to these customers was \$448,831. To date \$258,110 or 57.507% has been paid. Efforts will continue to collect 100% of the amount billed.

In addition, each of the customers identified in the 12/22/99 Manager's Report had been contacted by Customer Service employees several months to several years prior to the report. It is important to note that Water Department staff had been actively involved in notification and collection activities related to the unbilled meters referenced in the December 22, 1999 report.

In each instance referencing unbilled meters, the customer had multiple meters. In one instance the customer had 47 meters at the location, only 1 meter was not in the billing system. Water Department staff discovered the 1 unbilled connection in February, 1999. Billing personnel computed charges, a bill was issued in October 1999, and the account was paid in November 1999.

25. Certain supervisory personnel did not perform their managerial duties in an efficient and responsible manner.

RESPONSE: The respondent agrees with the finding. All appropriate disciplinary action has been taken and the Department has provided additional resources where necessary to enable supervisors to perform their duties appropriately.

26. No manager or supervisor appears to have been disciplined for actions or inactions in the areas under investigation.

RESPONSE: The respondent disagrees wholly with the finding. Appropriate disciplinary action has been taken.

27. In some instances water is provided to the City Parks and Recreation Department without passing through City water meters.

RESPONSE: The respondent agrees with the finding. The Park and Recreation Department pays for medians maintained by the department based upon a flat-rate formula approved by the City Council. It would not be cost effective to retrofit these sites with individual meters. All other Park and Recreation accounts are billed through the normal consumption billing process.

28. By using un-metered water the City Parks and Recreation Department is either paying too much or too little for the water it uses, thereby unfairly subsidizing or profiting from the ordinary water user.

RESPONSE: The respondent disagrees wholly with the finding. The Park and Recreation Department is paying on estimated usage, based upon a flat-rate formula approved by the City Council. It would not be cost effective to retrofit these medians with individual meters.

29. Several Department managers and supervisors, after having been contacted directly by some City Council staff personnel requesting information on behalf of their constituents, have felt pressured to accommodate water user requests.

RESPONSE: The respondent disagrees partially with the finding. Some staff has expressed feeling pressure to accommodate requests from Council staff. However, department management has repeatedly directed supervisors to continue with proper procedures and has met with Council staff to explain the procedures. It is entirely appropriate for City Council staff to contact Water Department staff on behalf of their constituents to seek information or provide information. The fact that it is a contact from an elected official's office has on occasion caused department staff to worry about providing the proper response. Invariably when management staff responds the information exchange has gone well and we know of no examples where City Council staff has exerted undue or improper influence.

RESPONSE TO RECOMMENDATIONS:

Requirements:

As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of the publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with a n explanation therefor.
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- 00-64 That the City Manager formulate a plan, including but not limited to seeking legislation, to eliminate the practice that allows water users to apply for water services under a different name without bringing delinquent accounts current.

RESPONSE: The recommendation will not be implemented because it is not reasonable. A plan is not needed because the Water Department does not allow this practice. A new customer may sign up at a particular service address if they provide the required information. However, the new customer will be given an account number different than that assigned to the previous account holder. The new customer will be responsible for payments of all water bills as of the date they are assigned their account number. The previous delinquent account holder is then referred for credit collection. Additionally, the Department is evaluating the pros and cons of requiring any request for new service to include responsibility for bringing previous accounts at the same address current. This requirement is used by some other water agencies, but has the effect of penalizing new tenants or owners where the previous account holders have not paid their water bill.

- 00-65 That the City Manager require any city employee who encounters materials that are hazardous or suspected of being hazardous to immediately report such to a designated City official authorized to deal with such matters.

RESPONSE: The recommendation has been implemented. Employees receive hazardous materials training in accordance with Administrative Regulation 75.75 (established April 15, 1990), which includes instruction regarding reporting of suspected hazardous materials.

- 00-66 That the City Manager investigate to determine whether the responsibility for mismanagement and lack of leadership should be placed on the Water Department Director, then Chief Deputy Director, and other management personnel and, if so, to what extent.

RESPONSE: The recommendation has been implemented. Please refer to the attached copies of the Manager's Report to the Mayor and City Council dated 12/22/99; Memo to Mayor and City Council dated 2/28/00; Memo to Mayor and City Council dated 3/24/00; and Memo to Mayor and City Council dated 6/14/00.

- 00-67 That the City Manager investigate to determine the extent of the responsibility for the mismanagement and lack of leadership to be placed on Water Department supervisory personnel.

RESPONSE: The recommendation has been implemented. Please refer to the Manager's Report to the Mayor and City Council, dated 12/22/99, copy attached.

- 00-68 That the Department test all new water meters and recording or reading devices it contemplates purchasing before entering into a purchase contract.

RESPONSE: The recommendation will not be implemented because it is not warranted. The Water Department accepts AWWA certifications for these meters prior to entering into purchase contracts. The AWWA is a national organization comprised of virtually every water organization in the country. Manufacturers are required to test and calibrate their devices so that the devices meet these standards. The City also randomly tests some devices prior to their use. Reading devices will be inspected to ensure that they are compatible with the meters used by the City.

- 00-69 That the Director of the Water Department require that any instruction to an employee that deviates from Department policy be in writing.

RESPONSE: The recommendation will not be implemented because it is not warranted. It is not always practical to provide written instructions to employees in a department of more than 800 employees which maintains a 7 day a week, 24 hour a day schedule. The Department takes advantage of a wide variety of communication techniques including e-mail, video tape, all hands meetings and tailgates as well as an extensive committee system which includes employees of all levels of the Department. By using these various methods the Department can effectively communicate appropriate information to all parts of the organization. However it is, and will continue to be, the Department's practice that all major policy changes, such as modifications to Departmental Instructions, will be done in writing.

- 00-70 That the Water Department Director ensure that the Code of Compliance Section staff not become understaffed by reason of long-term absence.

RESPONSE: The recommendation has been implemented. The Department has added three positions. There will be a total of six Code Compliance Officers, in addition to one Code Compliance Supervisor. Backfilling for any future long term absences will be evaluated at the time of occurrence and appropriate action taken.

- 00-71 That the City Manager establish procedures so that, when Department personnel are contacted directly about Department business by a City Council member or staff, there will be no improper influence, direction, or other impropriety.

RESPONSE: This recommendation has been implemented. The City already had a procedure in place to address this issue. City Council members or staff have every right to contact Water Department employees to ask for information or to discuss issues concerning their constituents. However, if Water Department employees think that they are being

improperly directed by these contacts in violation of Charter Section 22, the employees are required to report this to their supervisor who will discuss the matter with department management for action if required.

- 00-72 That the City Manager require that all water used by the Parks and Recreation Department pass through water meters.

RESPONSE: The recommendation will not be implemented because it is not warranted. It is not cost effective to retroactively place meters in all street medians. The Department has established an effective method of calculating water usage at unmetered sites. Using a variety of factors, the Department is able to accurately predict the usage of water at unmetered Park and Recreation medians.

- 00-73 That the City Manager seek enactment of City or State legislation, as necessary, to require penalties including but not limited to forfeiture for the unlawful connection of meters, hoses or other devices to City water sources.

RESPONSE: The recommendation will not be implemented because it is not warranted. The existing penalties in the State Penal Code Section 498 and San Diego Municipal Code Chapter 6, Article 4 and Chapter 6, Article 7 are sufficient.